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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
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11 MAXIMILIANO PEREZ,

12 Plaintiff(s),

13 v.

14 PETER REUBEN SHENK-KOONTZ,

15 Defendant(s).

Case No.: 2:17-cv-02138-APG-NJK

ORDER

16 Pending before the Court is an order for Defendant and Defendant's counsel of record (Lara
17 Miller and Thomas Winner) to show cause for violating the Court's order setting the settlement
18 conference and for potentially not participating in that settlement conference in good faith. Docket
19 No. 33. Defendant and his counsel have responded. Docket No. 37.

20 With respect to the attendance requirements, Defendant and his counsel acknowledge that
21 they violated the order. They also put forward no plausible explanation for that violation, but
22 merely state that the failure to appear was in error. That is not compelling, as the attendance
23 requirements are clearly articulated in the Court's order. Moreover, Mr. Winner acknowledges
24 that he did not even review the Court's order, despite being lead counsel on the case. *See* Docket
25 No. 37 at 3. There is obviously no excuse for failing to read an order.

26 With respect to participating in good faith, Defendant's counsel first represents stunningly
27 that they were unaware of the insurance carrier's settlement position "until shortly before the
28 settlement conference occurred." *Id.* at 2. Such a representation is directly contrary to counsel's

1 obligation to obtain that settlement position well before the conference and to include it in the
2 settlement statement. *See* Docket No. 33 at 1 n.2 (notation in order to show cause that Defendant's
3 settlement statement violated the Court's order to include the initial offer that Defendant intended
4 to make). Moreover, Defendant's counsel now asserts that the downward departure from the
5 previous offer was based on new facts learned during discovery. Other than a passing reference
6 to that effect by the insurance representative, that was not the explanation provided at the
7 settlement conference.¹

8 In short, Defendant and his counsel admit to violating a clear order regarding attendance
9 without any reasonable justification, and have provided inconsistent and problematic attestations
10 regarding their conduct at the settlement conference. The Court would be well within its discretion
11 to impose monetary sanctions in these circumstances. In this instance, however, the Court will
12 **ADMONISH** Defendant, attorney Lara Miller, and attorney Thomas Winner. The Court further
13 **ORDERS** Ms. Miller and Mr. Winner to attend five hours of continuing legal education regarding
14 ethics and/or federal litigation practice, and to file a declaration of doing so by March 27, 2019.
15 The Court expects strict compliance with its orders in the future, and failure to do so may result in
16 the imposition of significant sanctions. In all other respects, the order to show cause is hereby
17 **DISCHARGED**.

18 IT IS SO ORDERED.

19 Dated: February 27, 2019

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23 Nancy J. Koppe
24 United States Magistrate Judge
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28 ¹ Instead, counsel stated repeatedly and emphatically that she was backtracking from the
previous offer out of her personal frustration with the conduct of opposing counsel months earlier.